

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (37 CFR 1.8)

Applicant(s): SMITH et al

Docket No.

1044-AW

Application No.

09/835,790

Filing Date

04/16/01

Examiner

R. Ridley

Customer No.

27542

Group Art Unit

3651

RECEIVED

AUG 17 2004

OFFICE OF PETITIONS

Invention: ONE-WAY PNEUMATIC SYSTEM

AUG 13 2004

I hereby certify that this Petition to Revive

(Identify type of correspondence)

is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

AUG 17 2004

OFFICE OF PETITIONS

IN RE APPLICATION OF:

SMITH et al

FOR:

**ONE-WAY PNEUMATIC DELIVERY
SYSTEM**

SERIAL NO.

09/835,790

FILING DATE:

04/16/01

EXAMINER:

R. Ridley

ART UNIT:

3651

ATTORNEY DOCKET NO.

1044-AW

PETITION TO REVIVE

OFFICE ERROR OR, IN THE ALTERNATIVE, UNAVOIDABLE ABANDONMENT

MAIL STOP PETITION

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 222313-1450

Sir:

In response to the Notice of Abandonment apparently issued October 2, 2003,
Applicant hereby Petitions to Revive the above-identified application.

This application was allowed on 03/04/03 and the issue fee was paid on
06/04/03. The Applicant recently requested an online status of the application because
the Letters Patent had not been received. The online status inquiry revealed that the

application had been abandoned on October 2, 2003, for failure to correct the Drawings, Oath or Non Publication Request. Applicant has reviewed all papers received from the Patent Office and has found no requirement to correct either the Drawings or the Oath. The Applicant never filed a Non Publication Request on this matter. Applicant notes from the status inquiry that miscellaneous mail was apparently sent to the Applicant on July 16, 2003, but reports that no such mail was ever received. Applicant is therefore unaware of the contents of that correspondence. Applicant further notes from the status inquiry that the application was apparently received into the Publication Office twice - once on July 8, 2003 and for a second time on August 14, 2003. Applicant is not aware of the significance of this information.

Inasmuch as Applicant cannot locate any requirement to correct the drawings or oath, either when the application was originally filed, during prosecution of the application or upon allowance of the same, Applicant respectfully submits that the Patent Office abandoned this application in error.

Applicant therefore respectfully petitions that this application be revived on the grounds of Office error.

In the alternative, Applicant respectfully submits that this application was unavoidably abandoned by the Applicant. Applicant intended for the patent to issue, as can be witnessed from the fact that the issue fee was paid. Furthermore, the Applicant is fully aware that corrected drawings would have to be filed with the Office prior to payment of the issue fee and would have submitted any required drawing corrections or correction to the Oath had any requirement for correction of the same been issued by the Patent Office.

In order to ensure that the Petition is not refused for failure to pay a fee, Applicant submits herewith the fee required for a Petition to Revive on the basis of unavoidable abandonment, namely the fee of 37 C.F.R. 1.17(l) - \$55. **Applicant however requests that if the determination is made that the application was abandoned for an inadvertent error on the part of the Office, the petition fee of \$55 be refunded to the Applicant.**

Applicant submits that since this application has a filing date on or after June 8, 1995, no terminal disclaimer is required.

If the Examiner at the Office of Petitions needs to discuss this matter further with the Applicant or if a telephone interview would be beneficial to facilitate the revival of the instant application, they are urged to contact the undersigned at the telephone number listed below.

Respectfully submitted at Canton, Ohio, this 9TH day of August, 2004.

SAND & SEBOLT


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Attorney Docket: 1044-AW

Enclosure: Check for \$55